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**MAY 06 2005**

**TECHNOLOGY CENTER 3600**

WILLIAMS, MORGAN & AMERSON, P.C.  
10333 Richmond, Suite 1100  
Houston, TX 77042

In re application of

Mark A. Turner

Application No. 10/797,489

Filed: March 10, 2004

For: APPARATUS AND METHOD FOR ACTUATING  
CONTROL SURFACES

: **DECISION ON REQUEST**  
: **FOR WITHDRAWAL OF**  
: **ATTORNEY**

This is a decision on the request filed on March 29, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

- A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;
- B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and
- C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks a reason for the withdrawal under conditions A) and B) above.

As to condition A), the attorneys listed in the request (Customer Number 23720) do not correspond with those named in the Power of Attorney in the declaration, thereby creating confusion as to who is withdrawing. The original Power of Attorney appointed several attorneys. Of these attorneys, Stephen S. Sadacca, Scott F. Diring, Shelley P.M. Fussey, Mark D. Moore, and Stephanie A. Wardwell are not associated with Customer No. 23720. The reference to a customer number appears to not include all the attorneys of record. If less than all the attorneys wish to withdraw and a portion of the originally listed attorneys wish to retain power, any renewed request must so state, otherwise the person signing must be signing on behalf of all the attorneys of record.

As to condition B), the reason "this application is being transferred to another attorney or agent of record", is not appropriate since it is not clear that the client initiated the transfer, or that the client knowingly or freely assents to the transfer to new counsel. A proper reason for withdrawal is enumerated in 37 CFR 10.40(b) subsections (1)-(4) or subsections (1)-(6) of 37 CFR 10.40(c) must be provided.



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SNM/pav: 04/28/05